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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,210	11/24/2003	Manfred Schingnitz	4797-46	8520

27799 7590 08/23/2005

COHEN, PONTANI, LIEBERMAN & PAVANE
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NEW YORK, NY 10176

EXAMINER

RIDLEY, BASIA ANNA

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,210

Applicant(s)

SCHINGNITZ ET AL.

Examiner

Basia Ridley

BR

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 10-11 are directed to a Species of invention that is independent or distinct from the Species of invention originally claimed for the following reasons:

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A as shown in Fig. 1;

Species B as shown in Fig. 2; and

Species C as shown in Fig. 3.

Currently, at least claim 1 appears to be generic.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Since applicant has received an action on the merits for the originally presented Species, specifically, Species C, this Species has been constructively elected by original presentation for

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prosecution on the merits. Accordingly, claims 10-11 are withdrawn from consideration as being directed to a non-elected Species. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

2. The claims 1-3 and 8-9 are objected to because they include reference characters which are not enclosed within parentheses (see claim 1, line 10).

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Schingnitz et al. (US 2001/0020346).

Regarding claims 1-3 and 8, Schingnitz et al. discloses a reactor wall comprising:

- a pressure shell (4) having an outer surface and an inner surface;
- a cooling wall (14) having an outer surface spaced radially inwards from said inner surface of said pressure shell so as to define a ring shaped gap (Fig. 4) with said inner surface of said pressure shell, through which gap a cooling medium is circulated;
- a thermally conductive ramming mass (6) adjacent to said cooling wall (14);
- a solid layer of slag (9) adjacent to said thermally conductive ramming mass (6);
- a liquid film of slag (C5/L15-30);

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- fixation means (11, 12) attached to an inner surface of said cooling wall (14) to provide separate means for holding said ramming mass (6) in place;
- wherein said fixation means (11, 12) is selected from the group consisting of pins and anchors (Fig. 3-4);
- wherein said cooling medium is water (C5/L11-15).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schingnitz et al. (US 2001/0020346) in view of Moritz et al. (USP 3,128,164).

Regarding claim 9, Schingnitz et al. discloses all of the claim limitations as set forth above, but the reference does not disclose any specific materials which can be used as the ramming mass.

Moritz et al. teaches that silicon carbide is a suitable refractory to be used in gasifiers (C4/L61-67).

Since the instant specification is silent to unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the silicon carbide, as taught by Moritz et al., as the ramming mass in reactor of Schingnitz et al., as doing so would amount to nothing more than use of a known material for its intended use in a known environment to accomplish entirely expected result.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Response to Arguments

8. Applicant's arguments filed on 30 June 2005 have been fully considered but they are not persuasive.

9. The applicant argues that Schingnitz et al. does not show a ring shaped gap through which a cooling medium is circulated. This is not found persuasive. Schingnitz et al., in Fig. 4, clearly shows a ring shaped gap through which a cooling medium is circulated (formed by combined area inside the tubes 14. Examiner notes that claims currently under consideration do not require said gap to be continuous and the rejected claims do not exclude a ring shaped gap comprising dividers, dividing said gap into smaller gaps, as the claimed transitional term "comprising" permits the inclusion of other steps, elements, or materials, including both, those disclosed but not claimed by applicant and those neither disclosed nor contemplated by applicant. See *In re Baxter*, 656 F.2d 679, 686, 210 USPQ 795, 802 (CCPA 1981)., and as

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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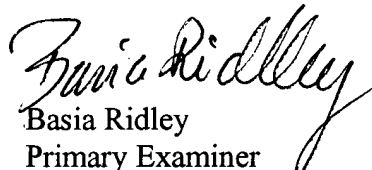
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Basia Ridley, whose telephone number is (571) 272-1453.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola, can be reached on (571) 272-1444.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Technical Center 1700 General Information Telephone No. is (571) 272-1700. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).


Basia Ridley
Primary Examiner
Art Unit 1764

BR
August 19, 2005